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GEDP106US

REMARKS

Claims 1-8 and 39-50 are currently pending in the subject application and are presently under consideration. Claims 1, 40, 47, and 50 have been amended herein to further emphasize various novel features. A version of the claims is shown at pages 2-6 of the Reply.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

**I. Rejection of Claims 1-8 and 39-50 Under 35 U.S.C. §103(a)**

Claims 1-8 and 39-50 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Salmon, *et al.* (US 5,592,375). Withdrawal of this rejection is respectfully requested for at least the following reasons:

Salmon, *et al.* fails to disclose, teach or suggest each and every feature set forth in the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. *Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.* See MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

Applicant's claimed invention relates, among other things, to a multiple criterion buying and selling model that correlates criteria defined by a buyer with the criteria defined by the sellers. The sellers of a particular good or service define a set of minimum inputs and other buying criteria (see page 11, lines 4-7; page 16, lines 15-21; Fig. 8b, element 303), while the buyers may enter criteria that is important to them of which the sellers may not have listed in their own criteria or even be aware it would be of interest to buyers (see page 2, lines 24-25). Hence, the system will inform sellers when buyers input criteria that the sellers did not list in

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their own criteria. (See page 11, lines 13-15). In particular independent claim 1 (and similarly independent claims 40, 47, and 50) recites, "*notifying the seller of the particular product or service when buyer defined criteria does not match seller defined criteria.*" Additionally, independent claim 40 (and similarly independent claim 47) recites, "...outputs a list of deals when a plurality of price and non-price buying criteria *defined by the buyer matches* a plurality of price and non-price selling criteria *defined by the seller*, wherein the buyer's non-price criteria includes at least one distribution criterion". Salmon, *et al.* does not teach or suggest these features.

In particular, Salmon, *et al.* does not teach or suggest *notifying the seller of the particular product or service when buyer defined criteria does not match seller defined criteria*, as recited in independent claim 1 (and similarly in independent claims 40, 47, and 50). These novel feature are detailed in the specification portion of the application (*see e.g.*, page 11, lines 13-15; page 16, lines 3-7; Fig 4a, element 160), and clearly distinguishes over the cited references. Accordingly, withdrawal of this rejection with respect to claims 1, 40, 47, and 50, as well as all claims that depend there from is requested.

Salmon, *et al.* relates to a system for brokering goods or services between buyers and sellers and discloses a method for facilitating a personnel search and brokering the deal between a hiring manager (buyer) and a prospective employee (seller). (See col. 3, lines 28-65). The system allows information in a number of forms (*i.e.*, a wide range of multimedia formats) to be submitted by the seller, compiled in a database and reviewed by the buyer. (See col. 1, lines 21-25). However, the information submitted by the sellers must conform to the categories of data the Product Profile is equipped to accept (*see e.g.*, col. 3, lines 15-21), and, therefore, contains inherent limitations based upon what the database designer thinks is important buying and selling criteria. (See col. 6, lines 3-5, "*The 'Industry' and 'Function' codes may be designed by the database designer, or for instance, taken from the Department of Labor's index of job classifications.*"). Hence, the system of Salmon, *et al.* teaches that someone other than the seller (*i.e.* the database designer) defines the selling criteria because "Industry" and "Function" codes must already exist in the database before the seller can 'select' them as the selling criterion. Similarly, the buyer does not define his own criteria, but simply checks a box to select from the available criteria. Accordingly, Salmon, *et al.* does not teach or suggest listing "deals when a plurality of price and non-price buying criteria *defined by the buyer matches* a plurality of price

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and non-price selling criteria *defined by the seller*, wherein the buyer's non-price criteria includes at least one distribution criterion", as recited in independent claim 40 (and similarly in independent claim 47).

While the system disclosed in Salmon, *et al.* is comprehensive, it is also very rigid and does not provide for the flexibility of the subject invention as claimed. For example, neither the buyers nor the sellers can actually define the criteria that are correlated to find potential matches. Rather, the users simply check boxes that apply, and these boxes are defined by the database designer. Unless this pre-established data is used by both the buyer and the seller, the reference cannot perform matching. Therefore, while the reference can allow information to be submitted by the seller that does not conform to the pre-defined categories (e.g., multimedia information, *see col. 1, ll. 32-34*), this additional data is not used to match buyers with sellers, but instead is only available for the buyer to review. Accordingly, Salmon, *et al.* can correlate deals for a product by matching criteria specified by a buyer with that of a seller, but only when the criteria is pre-defined, not defined by the user (e.g., a box that the user can check or leave unchecked). Therefore, even if the Examiner reads the submission of multimedia data as "seller defined" data, then Salmon, *et al.* still fails to list "deals when a plurality of price and non-price buying criteria *defined by the buyer* matches a plurality of price and non-price selling criteria *defined by the seller*, wherein the buyer's non-price criteria includes at least one distribution criterion" as recited in independent claim 40 (and similarly independent claim 47). Rather, Salmon, *et al.* merely matches pre-defined criteria, and fails to disclose or suggest the flexibility recited in the subject claims.

09/426,063GEDP106US**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [GEDP106US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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